



# State of South Carolina

## Office of the Governor

MARK SANFORD  
GOVERNOR

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COLUMBIA 29211

January 22, 2009

The Honorable J. William McLeod  
The Honorable Rebecca Richardson  
The Honorable McKinley Washington, Jr.  
South Carolina Employment Security Commission  
1550 Gadsden Street  
Columbia, South Carolina 29202

Dear Commissioners,

We find ourselves in an untenable situation that in the end will prove to be damaging for the unemployed, the employed, taxpayers and our state's business environment at large due to what I am beginning to consider near gross negligence on your part.

It is inconceivable to me that you could quietly stand by and watch the Unemployment Trust Fund that you are charged with shepherding fall continuously since 2001 without making your respective voices heard. Not raising this issue in loud, continuous and public terms is a breach of trust between yourselves and the unemployed of the state. Meeting with selected legislators three years ago, according to media reports, from my vantage point, does not represent an earnest attempt to safeguard the very funds you are statutorily charged to protect.

Accordingly, enough is enough on the delaying tactics that have seemingly been employed since we asked for detailed information over a year ago, and the business community at large asked for seven months ago. The timeliness of this information is especially significant given the request for yet another \$170 million this past week, and its implications for the tax-and-fee load borne by working South Carolinians.

My patience has run out, as has that of so many across our state. If I don't receive the information enumerated below, I will be forced to relieve you from your positions in the hope that the next round of commissioners could be more responsive.

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To be clear, the Constitution and the laws of this State ensure that you ultimately must provide this information to us. Specifically, Article IV, Section 17 of the South Carolina Constitution provides that “[a]ll state officers, agencies, and institutions within the Executive Branch shall, when required by the Governor, give him information in writing upon any subject relating to the duties and functions of their respective offices, agencies, and institutions.” Moreover, under S.C. Code Ann. § 1-3-10, public officers have a duty to “immediately furnish to the Governor, in such form as he may require, any information desired by him in relation to their respective affairs or activities” upon request.

Accordingly, pursuant to my Constitutional and statutory authority, I am hereby requesting that you provide to the Office of the Governor the following information:

- (1) Individual unemployment insurance claimant information, including, but not limited to:
  - a. all individuals who initiated claims with the ESC, including those who were denied unemployment insurance benefits due to ineligibility; provided, however, that all claimants will be identified by a unique number that does not reveal their identity or other personally identifiable information;
  - b. date of filing;
  - c. duration of benefits provided;
  - d. reason for termination of benefits (e.g., obtained employment, exhaustion of benefits, etc.);
  - e. method of applying for unemployment insurance benefits;
  - f. claimant’s age, gender, race, county of residence and employment, education, industry (as indicated by the 3-digit NAICS level), occupation (as indicated by the 3-digit SOC level), and specific reason for employment separation (e.g., lack of skills, absenteeism, child care problem, maternity/paternity leave, civic/military duty, voluntary quit, plant closing, temporary plant shut-down, seasonal work, etc.);
  - g. indication of whether claimant participated in the extended benefits program of the 2008 Federal Economic Stimulus Act.
- (2) Employer information for all employer-filed unemployment claims, including, but not limited to:
  - a. date of temporary shut-down;
  - b. length of shut-down;

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- c. location of facility being shut-down, including county;
- d. industry of employer (as indicated by the 3-digit NAICS level);
- e. occupations of employees separated by shut-down (as indicated by the 3-digit SOC level);
- f. a unique identifier for the employer that will allow access to the employer's entire history of shut-downs.

The data requested above includes all unemployment insurance data from January 1, 2006 until December 31, 2008, and must be produced to the Office of the Governor on or before February 9, 2009. Thereafter, the ESC must provide a monthly report of unemployment insurance data in the same form as the initial collection and consistent with the data reported on the ETA203 Report and/or the Weekly Unemployment Insurance Claims data reported to the United States Department of Labor Employment and Training Administration. These monthly reports must include the monthly unemployment rate, an explanation of the methodology used to calculate the unemployment rate, and a detailed breakdown explaining how the CPS, CES, and UI Claims data contributed to the unemployment rate. Based on our meetings with your staff, this is information that is already collected by the ESC.

As you know, a public officer's failure to comply with his or her statutory duty of providing information to the Governor upon request constitutes misfeasance, which is a ground for removal under S.C. Code Ann. § 1-3-240(A).

While I would take no pleasure in doing so, let me assure you that I will not hesitate to exercise that authority should you fail in your duty to meet this request.

Sincerely,



Mark Sanford

MS/bg

cc: Mr. Roosevelt T. Halley